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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,848	10/08/2003	Charles V. Fernandez	200300442-1	7123
22879	7590	06/23/2005	EXAMINER	
HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			VO, ANH T N	
			ART UNIT	PAPER NUMBER
			2861	

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

**Office Action Summary**

Application No.

10/681,848

Applicant(s)

FERNANDEZ, CHARLES V.

Examiner

Anh T.N. Vo

Art Unit

2861

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6, 10-12, 16-18, and 22 is/are rejected.
- 7) ☒ Claim(s) 2,7-9,13-15 and 19-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/08/2003</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The references cited on PTO 1449 have been considered.

### ***Specification***

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. However, the applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim objections***

Claims 7 and 13 are objected to because they do not recite the necessary steps of the method claim. Correction is required.

### ***Claim Rejections***

#### ***Claim Rejections - 35 USC § 112***

Claims 16-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not understood what the storage medium, "program and "instructions" are and how the instructions can be executed to as recited in claims 16-18 since the present invention does not show the detailed structure of the program of instructions and show how they can perform the reciting functions. Clarification is required.

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Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Correction or clarification is required.

In claim 4, it is unclear how the “compensating step” can be “performed if the user decides to compensate for depleted color, i.e., how the user decision can be recognized. The same is true for claim 10.

In claims 5 and 11-12, the recitation “the use” on line 3 lacks clear antecedent basis. The same is true for reciting “said adjusted color” on line 7 of claims 7, 13 and 19.

In claim 7, it is unclear where the “slider”, “ok button” and “a print sample button” comes from, how the user can desire to compensate, how the sample can be “printed” since no means for perform the printing function is recited in the claim, how the user can “determine” if the compensated color can be “acceptable” and how this limitation is read on the preferred embodiment or seen on the drawings. The same is true for claim 13.

In claim 8, it is unclear where the “button” comes from and how it can be clicked. The same is true for reciting “help button” in claims 9, 14 and 21, and “cancel button” in claims 15 and 20.

In claim 16, it is not understood what the “program instructions” is and how it can execute to perform the “inserting step” since the ink cartridge is inserted by a user, “monitoring step”, “determining step” and “having step”, and how the instructions can relate the printing system or the ink container to perform the recited steps. The same is true for claims 17-18.

In claim 22, it is unclear how the recitation “means for providing an cartridge and a printer means” is read on the preferred embodiment. Insofar as understood, no such means are seen on the drawings.

The remaining claims are dependent from the above claims and therefore also considered indefinite.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-6, 10-12, 16-18 and 22 are rejected under 35 USC 102 (b) as being anticipated by Wetchler et al (US 6,196,663).

Wetchler et al discloses in Figures 3-7 a printing system comprising:

- an ink/toner cartridge (18, Figure 3) including a plurality of ink/toner colors (Figures 4A-4B);
- a printer driver (26) operatively connected to said cartridge (18);
- a memory device (38) operatively connected to said printer driver (26) for recording ink/toner usage of said cartridge (18);
- a display device (48, 50) operatively connected to said printer driver (26) to allow a user to determine which color was depleted first and to compensate for an uneven usage of that color (column 9, lines 55-65 and column 10, lines 1-38); and
- wherein said system is further comprised of: a print head (14, Figure 3) operatively connected to said printer driver (26); and a print mechanism (54) operatively connected to said printer driver (26).

### *Allowable Subject Matter*

Claims 2, 7-9, 13-15 and 19-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The claims are allowed because the prior art of record does not show the display comprising history button, slider/scale, ok button, a print sample button, cancel button and a help button as combined in the claims.

### *CONCLUSION*

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Anh Vo whose telephone number is (571) 272-2262.

The examiner can normally be reached on Tuesday to Friday from 8:00 A.M. to 6:00 P.M..

The fax number of this Group 2861 is (703) 872-9306.



**ANH T.N. VO**  
**PRIMARY EXAMINER**

June 17, 2005